

ANNUAL REPORT 2009

IRISH TAKEOVER PANEL

Report for the year ended 30 June 2009

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This annual report of the Irish Takeover Panel is made to
Mary Coughlan, T.D., Tánaiste, Minister for Enterprise, Trade and Employment as required
by section 19 of the Irish Takeover Panel Act, 1997

Irish Takeover Panel (Registration No. 265647), Lower Ground Floor, 76 Merrion Square, Dublin 2

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Members of the Panel

Irish Association of Investment Managers	
Irish Clearing House Limited	- Nominated by the Irish Bankers Federation
Irish Stock Exchange Limited	
Law Society of Ireland	
Pat Costello	- Nominated by the Consultative Committee of Accountancy Bodies - Ireland

Directors of the Panel

Chairperson	Rory Brady, S.C.	Appointed by the Governor of the Central Bank of Ireland
Deputy Chairperson	Ann Fitzgerald	Appointed by the Governor of the Central Bank of Ireland
	Thomas Byrne (Alternate: John Butler)	Appointed by the Irish Bankers Federation
	Paul D’Alton	Appointed by the Consultative Committee of Accountancy Bodies – Ireland
	Daniel Kitchen (Alternate: Gerardine Jones)	Appointed by the Irish Stock Exchange
	Frank O'Dwyer	Appointed by the Irish Association of Investment Managers
	Alvin Price	Appointed by the Law Society of Ireland

Director General (and Secretary of the Panel)

Miceal Ryan

Introduction

The Irish Takeover Panel (the “Panel”) is the statutory body responsible for monitoring and supervising takeovers and other relevant transactions in Ireland. The Panel was established by the Irish Takeover Panel Act, 1997 (the “Act”) and is incorporated as a company limited by guarantee. The Panel is designated as the competent authority under the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006 (the “Regulations”) for the purpose of Article 4(1) of the Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids.

The Panel is responsible for making Rules to ensure that takeovers (including takeover bids as defined in the Regulations) and other relevant transactions comply with the General Principles set out in the Schedule to the Act. These General Principles are designed to ensure fair and equal treatment of all shareholders in relation to takeovers. The Rules also serve to provide an orderly framework within which takeovers can be conducted.

The Panel has extensive powers under the Act to make rulings and give directions, to hold hearings, to summon witnesses and to require production of documents and other information, where these are appropriate in the discharge of its statutory functions.

Chairperson's Statement

The last year has been a busy year for the Panel. It met on 41 occasions to deal with many matters within its statutory jurisdiction. In this regard, one of the principal functions of the Panel is to ensure that the Takeover Rules are complied with and that the pre-eminent interest of the equal treatment of shareholders is achieved in every takeover. The achievement of that objective is complemented by the Panel giving directions to parties and advisors involved in proposed or actual takeovers. The purpose and function of such directions is to ensure that all actions taken or intended to be taken are compliant with the Takeover Rules. It is a most useful power that has been exercised, on many occasions, since the establishment of the Panel.

The Panel's jurisdiction embraces companies quoted inter alia on the Irish Stock Exchange. The current market capitalisation of those companies quoted on the Irish Stock Exchange over which the Panel exercises jurisdiction is approximately €44.4 billion. The value of offers and schemes of arrangement regulated by the Panel over the last 6 years was approximately €9.0 billion. The interests of a significant number of individual and institutional shareholders both foreign and domestic were thus protected. The Panel is funded exclusively from a levy imposed on listed companies. It does not receive funds from the Exchequer.

The 1997 Act has served, to good effect, the interests of the Panel and shareholders in Irish quoted companies. However, with our experience of issues that have arisen in the course of the past year, the Panel believes that it is appropriate and timely to make some changes to the 1997 Act. Accordingly, the Panel has written to the Department of Enterprise, Trade and Employment seeking to have a number of changes made to the legislative framework applicable to the Panel. These changes include the following:

- (a) A power to take evidence outside of the State.
- (b) A requirement that documentation is furnished by way of an affidavit of discovery when so required by the Panel.
- (c) The creation of a criminal offence of giving of misleading information to the Panel in the course or context of a takeover or an inquiry being conducted by the Panel on the seeking of a ruling or direction.
- (d) A clear statutory privilege for statements issued by the Panel.

It is of interest to note that the European Commission will soon engage in a review of the EU Directive on Takeover Bids 2004/25/EC. Hence, a review of the Panel's powers and privileges is appropriate. In particular Section 17 of the 1997 Acts needs to be revised.

The power to take evidence on commission, outside of the jurisdiction, in the context of an inquiry, is an essential ingredient of the successful exercise of the powers of investigation of the Panel. The legal advice available to the Panel is that it does not, at present, possess such power and is not in a position to compel foreign witnesses to participate in an inquiry (by giving evidence or producing documents) being conducted in this jurisdiction. Hence, the desirability of such changes. Given the increase in global investment activity the creation of such a power is all the more important to ensure the proper and effective functioning of the Panel's powers of investigation. We look forward to the timely amendment of the 1997 Act.

The Panel wishes to be in a position to give more detailed reasons for some of its decisions and, specifically, decisions made in the context of inquiries. It is therefore desirable to have a change in the law to give a clearer and more certain status to privilege attaching to its communications. This will enable the Panel to explain, to the broader investment community, the rationale behind its decisions that might otherwise be the subject of controversy and erroneous speculation as to the reasons for the same. The Panel would, of course, be at all times sensitive to the necessity to ensure that such reasons do not themselves become a source of distortion of market information.

The Panel continues to liaise with equivalent organisations in other jurisdictions. The benefit of the reflections of such organisations – on their experience of similar problems – is of assistance to us in the discharge of our functions. While we will make our decisions according to Irish law and in accordance with the Takeover Rules the best practice in other jurisdictions is a matter to which we will continue to inform our approach in seeking to protect the interests of shareholders in a takeover scenario.

From time to time issues arise that necessitate giving parties an opportunity to make submissions to the Panel. The Panel also has quasi-judicial functions in relation to the conducting of inquiries. Where the interests of a party is likely to be adversely affected by a direction or ruling of the Panel, it is a requirement of fair procedures (and the dictates of constitutional justice) that such a party is given an opportunity to make submissions on an issue that has consequences for that party's rights. The process of the exchange of submissions takes time. That is the reality imposed on the Panel, as a statutory body, by the obligation to adhere to the dictates of constitutional justice and fair procedures.

However, in the vast majority of matters brought before the Panel, such legal constraints do not apply, and the matter is dealt with expeditiously. Many matters are dealt with within a day or within a short period of days. The Panel will continue to adhere to its practices to date to ensure the timely making of decisions and will continue to do so in accordance with legal requirements.

I also want to take this opportunity to pay particular tribute to two members who have retired from the Panel. Billy McCann has provided sterling service, as vice chairman of the Panel, for 12 years. Earlier this year he retired from that position. His experience and wisdom was a source of great assistance to me and my predecessor as chairpersons of the Panel. He has made a signal contribution to the protection of shareholders interests through his participation in the Panel. We hope that he will enjoy his retirement. Likewise, David Beattie has been an invaluable member of the Panel giving us the benefit of his expertise and his insight into the many problems that present themselves to the Panel. He will also be a loss to our deliberations on the many thorny issues that frequently arise. I also welcome, as new members of the Panel, Frank O'Dwyer and Alvin Price. I look forward to the value added that both of them will bring to the future functioning and deliberations of the Panel.

Rory Brady S.C.
Chairperson

2 October 2009

Director General's Report

Disclosure of dealings in derivatives and options

Since the Panel's inception in 1997 Rule 8.3 has required persons with shareholdings of 1% or more of an offeree company or, in the case of a securities exchange offer, an offeror, to disclose publicly any dealings carried out by them during an offer period in the shares of the company concerned. Following the publication of a consultation paper on 30 July 2008 the Irish Takeover Panel Act, 1997, Takeover (Amendment) (No. 2) Rules, 2008 came into effect from 1 February 2009 and require persons with an aggregate gross long interest of 1% or more, including interests held through derivatives and options, to similarly disclose their dealings. This was a significant change to the Panel's dealing disclosure requirements and, thus far, the new regime appears to be operating without much difficulty. The new disclosure regime broadly corresponds with the amendments made under the UK Takeover Code some years earlier.

The concept of an "interest" in a relevant security introduced into the disclosure regime has not yet been extended to Rules 5 and 9 i.e. control issues. In order to extend the concept to such control issues the current definition of "control" in the Irish Takeover Panel Act 1997 will have to be amended and this will obviously require a legislative amendment. The Panel will be seeking such a legislative amendment.

Schemes of arrangement

As stated in last year's Annual Report, the Irish Takeover Panel Act, 1997, Takeover (Amendment) Rules, 2008 came into effect on 15 September 2008 and amended the Takeover Rules as they apply to schemes of arrangement. The amended Rules represent a more comprehensive application of the Rules to schemes of arrangement.

Substantial Acquisition Rules

On 24 November 2008 the Panel published a consultation paper containing proposals to abolish the Substantial Acquisition Rules. It was clear from that consultation exercise that practitioners and market participants have no objections to the abolition of those Rules. Consequently, the Panel will be seeking the necessary legislative amendments to abolish the Substantial Acquisition Rules.

Recognised Intermediary Status

The Irish Takeover Panel Act, 1997, Takeover (Amendment) (No. 2) Rules, 2008 introduced the concept of recognised intermediary status (“RI” status). RI status is relevant solely for the purpose of determining the applicability of the exemption from disclosure in Rule 8.3(e) and applies only to the extent that the RI is acting in a client serving capacity. Any dealings by a RI which is not acting in a client serving capacity will not benefit from the dispensation afforded by Rule 8.3(e) with the result that all such dealings by it will be subject to the provisions of the Rules as if that dispensation did not apply.

If any part of the trading operations of a bank or other financial institution wishes to be recognised by the Panel as a RI, it must apply to the Panel to be granted such status.

Financial Statements

Operating income in the 12 months ended 30 June 2009 was €984,769 which represented a return to more normal levels of income following a substantial reduction in the annual relevant company charge applied by the Panel in the year ended 30 June 2008 (the third such reduction in the last 6 years). As a result, operating income increased by 32.9% during the year. While income from document charges increased by over 25% to €192,490, income from contract note levies fell by over 21% reflecting the reduction in trading volumes in equity markets. Expenditure for the year amounted to approximately €1.17 million, an increase of 5.8% on the previous year. The Panel’s cash balances as at 30 June 2009 amounted to €1.79 million.

Miceal Ryan

Director General

2 October 2009

Directors' Report

The directors present their annual report and audited financial statements for the year ended 30 June 2009.

Principal activities, review of operations and future developments

The Irish Takeover Panel (the "Panel") is a public company limited by guarantee formed and registered under the Companies Acts, 1963 to 2009. The company was incorporated on 29 April 1997.

The Panel is the statutory body responsible for monitoring and supervising takeovers and other relevant transactions in Ireland. The Panel is designated as the competent authority under the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006 for the purpose of Article 4(1) of the Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids.

The Panel is responsible for making Rules to ensure that takeovers and other relevant transactions comply with the General Principles set out in the Schedule to the Act.

A review of operations and future developments is contained in the Chairperson's Statement and the Director General's Report.

Principal risks and uncertainties

Under Irish Company Law, the Panel is required to give a description of the principal risks and uncertainties which it faces. The principal risks are:

- a significant reduction in the income from relevant company charges and/or contract note levies; and
- a substantial increase in expenditure.

These risks are monitored by the Panel through its financial reporting procedures. The Panel's objective is to maintain adequate resources to meet any unforeseen substantial reduction in income and any substantial increase in expenditure.

Results for the year

The results for the year are set out in the Income and Expenditure Account on page 16. An amount of €450,000 was transferred from the Contingency Reserve to the Income and Expenditure Account (2008: Nil).

Accounting records

The directors believe that they have complied with the requirements of section 202 of the Companies Act, 1990 with regard to books of account by employing accounting personnel with appropriate expertise and by providing adequate resources to the financial function. The books of account of the company are maintained at 76 Merrion Square, Dublin 2.

Post balance sheet events

No material events effecting the financial statements have occurred since the end of the financial year.

Auditor

In accordance with section 160 (2) of the Companies Act, 1963, KPMG, Chartered Accountants, will continue in office.

On behalf of the Board

R. Brady
Chairperson

A. Fitzgerald
Deputy Chairperson

2 October 2009

Statement of Directors' Responsibilities

The directors are responsible for preparing the Directors' Report and financial statements in accordance with applicable law and regulations.

Company law requires the directors to prepare financial statements for each financial period. Under that law, the directors have elected to prepare the company financial statements in accordance with Generally Accepted Accounting Practice in Ireland, comprising applicable law and the accounting standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland.

The Company's financial statements are required by law to give a true and fair view of the state of affairs of the Company and of its profit or loss for that period.

In preparing these financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Company will continue in business.

The directors are responsible for keeping proper books of account that disclose with reasonable accuracy at any time the financial position of the Company and enable them to ensure that its financial statements comply with the Companies Acts, 1963 to 2009. They are also responsible for taking such steps as are reasonably open to them to safeguard the assets of the Company and to prevent and detect fraud and other irregularities.

The directors are also responsible for preparing a directors' report that complies with the requirements of the Companies Acts, 1963 to 2009.

On behalf of the Board

R. Brady
Chairperson

A. Fitzgerald
Deputy Chairperson

2 October 2009

Independent Auditor's Report to the members of the Irish Takeover Panel

(limited by guarantee)

We have audited the financial statements of Irish Takeover Panel for the year ended 30 June 2009 which comprises the Income and Expenditure Account, Balance Sheet and related notes. These financial statements have been prepared under the accounting policies set out therein.

This report is made solely to the Company's members, as a body, in accordance with Section 193 of the Companies Act, 1990. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company and the Company's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of directors and auditor

The directors' responsibilities for preparing the Directors' Report and the financial statements in accordance with applicable law and the accounting standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland (Generally Accepted Accounting Practice in Ireland), are set out in the Statement of Directors' Responsibilities on page 12.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view and have been properly prepared in accordance with the Companies Acts, 1963 to 2009. We also report to you our opinion as to: whether proper books of account have been kept by the Company; and whether the information given in the Directors' Report is consistent with the financial statements. In addition, we state whether we have obtained all the information and explanations necessary for the purposes of our audit, and whether the Company's financial statements are in agreement with the books of account.

We also report to you if, in our opinion, any information specified by law regarding directors' remuneration and directors' transactions is not disclosed and, where practicable, include such information in our report.

We read the Directors' Report and consider implications for our report if we become aware of any apparent misstatements within it.

Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In our opinion:

- the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of the Company's affairs as at 30 June 2009 and of its deficit for the year then ended;
- the financial statements have been properly prepared in accordance with the Companies Acts, 1963 to 2009.

We have obtained all the information and explanations which we consider necessary for the purposes of our audit. In our opinion, proper books of account have been kept by the Company. The financial statements are in agreement with the books of account.

In our opinion, the information given in the Directors' Report is consistent with the financial statements.

KPMG

Chartered Accountants

Registered Auditor

Dublin

2 October 2009

Financial Statements

Statement of accounting policies

The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the Company's financial statements.

Basis of preparation

The financial statements are prepared in accordance with generally accepted accounting principles under the historical cost convention, and comply with the financial reporting standards of the Accounting Standards Board, as promulgated by the Institute of Chartered Accountants in Ireland.

Operating income

This represents primarily the invoiced value of annual and document charges that the Company is entitled to levy and contract note levies on dealings in quoted securities of relevant companies collected through brokers on an accruals basis.

Tangible fixed assets and depreciation

Tangible fixed assets are stated at cost less accumulated depreciation.

Depreciation is calculated to write off the original cost of tangible fixed assets over their expected useful lives. A full years depreciation is charged in the year of acquisition. Depreciation is applied at the following annual rates:

Fixtures and fittings	20%
Computers	33%
Motor vehicle	25%

Cash flow statement

The company is exempted from the preparation of a cash flow statement as it qualifies as a small company under the Companies (Amendment) Act, 1986.

Pensions

The company operates a defined contribution pension scheme. The assets of the scheme are held separately from those of the Company in an independently administered fund. The annual charge is calculated as a percentage of pensionable payroll and is charged to the Income and Expenditure Account on an accruals basis.

Financial Statements

Income and Expenditure Account

for the year to 30 June 2009

		30 June 2009	30 June 2008
	<i>Notes</i>	€	€
Operating income	<i>1</i>	984,769	741,107
Operating expenditure	<i>2</i>	(1,171,533)	(1,107,480)
		<hr/>	<hr/>
Operating deficit		(186,764)	(366,373)
Profit on disposal of fixed assets		-	2,500
Interest income		62,902	88,885
		<hr/>	<hr/>
Deficit for the financial year	<i>10</i>	(123,862)	(274,988)
		<hr/> <hr/>	<hr/> <hr/>

The results derive from continuing operations.

There were no recognised gains or losses in the financial year or preceding financial year other than those included above in the Income and Expenditure Account.

On behalf of the Board

R. Brady
Chairperson

A. Fitzgerald
Deputy Chairperson

Financial Statements

Balance Sheet

as at 30 June 2009

		30 June 2009	30 June 2008
	Notes	€	€
Fixed assets			
Tangible assets	6	25,751	40,307
		<hr/>	<hr/>
Current assets			
Debtors and prepayments	7	150,414	133,077
Cash at bank		1,793,693	1,936,043
		<hr/>	<hr/>
		1,944,107	2,069,120
		<hr/>	<hr/>
Creditors: amounts falling due within one year	8	(55,403)	(71,110)
		<hr/>	<hr/>
Net current assets		1,888,704	1,998,010
		<hr/>	<hr/>
Total assets less current liabilities		1,914,455	2,038,317
		<hr/> <hr/>	<hr/> <hr/>
Accumulated surplus and reserve			
Contingency reserve	9	1,800,000	2,250,000
Income and Expenditure account	10	114,455	(211,683)
		<hr/>	<hr/>
		1,914,455	2,038,317
		<hr/> <hr/>	<hr/> <hr/>

On behalf of the Board

R. Brady
Chairperson

A. Fitzgerald
Deputy Chairperson

Financial Statements

Notes

1	Operating income	30 June 2009	30 June 2008
		€	€
	Relevant company annual charges	546,844	276,243
	Document charges	192,490	153,150
	Contract note levies	243,659	309,583
	Other	1,776	2,131
		984,769	741,107
		984,769	741,107

2	Operating expenditure	30 June 2009	30 June 2008
		€	€
	Operating expenditure includes:		
	Depreciation	15,905	15,636
	Auditor's remuneration	6,050	6,050
		21,955	21,686
		21,955	21,686

3 Employees

The average number of persons employed by the company and the employee costs during the year were as follows:

	30 June 2009	30 June 2008
	Number	Number
Number:		
Administration	4	4
Directors	7	7
	11	11
	11	11

Financial Statements

Notes (continued)

3 Employees (continued)

Costs:	30 June 2009	30 June 2008
	€	€
Salaries	349,463	345,533
Directors' remuneration	314,800	257,006
PRSI costs	39,131	33,985
Pension costs (note 4)	54,850	52,617
	<hr/>	<hr/>
	758,244	689,141
	<hr/> <hr/>	<hr/> <hr/>

4 Pension costs	30 June 2009	30 June 2008
	€	€
Pension charge	54,850	52,617
	<hr/>	<hr/>

The company makes contributions to a defined contribution scheme for certain employees, the assets of which are vested in independent trustees for the benefit of members and their dependants. The contributions for the year totalling €54,850 (2008: €52,617) are included within operating expenditure. At 30 June 2009 €9,459 (2008: €8,983) was prepaid within debtors in relation to this scheme.

5 Taxation

Under the provisions of the Taxes Consolidation Act, 1997 the company is exempt from Corporation Tax on its income.

Financial Statements

Notes (continued)

6 Tangible assets

	Motor vehicle €	Fixtures and fittings €	Computers €	Total €
<i>Cost:</i>				
At 1 July 2008	44,200	64,760	16,923	125,883
Additions	-	1,349	-	1,349
Disposals	-	-	-	-
	44,200	66,109	16,923	127,232
At 30 June 2009	44,200	66,109	16,923	127,232
<i>Depreciation:</i>				
At 1 July 2008	22,100	46,553	16,923	85,576
Charge for year	11,050	4,855	-	15,905
Disposals	-	-	-	-
	33,150	51,408	16,923	101,481
At 30 June 2009	33,150	51,408	16,923	101,481
<i>Net book value:</i>				
At 30 June 2008	22,100	18,207	-	40,307
	11,050	14,701	-	25,751
At 30 June 2009	11,050	14,701	-	25,751

7 Debtors and prepayments

30 June 2009 30 June 2008
€ €

Debtors	-	1,046
Prepayments and accrued income	150,414	132,031
	150,414	133,077
	150,414	133,077

Financial Statements

Notes (continued)

8	Creditors: amounts falling due within one year	30 June 2009 €	30 June 2008 €
	Trade creditors	395	125
	Accrued expenses	9,557	22,557
	PAYE and Social Welfare insurance	45,451	48,428
		55,403	71,110
		55,403	71,110
9	Contingency reserve	30 June 2009 €	30 June 2008 €
	At beginning of year	2,250,000	2,250,000
	Transfer to Income and Expenditure Account	(450,000)	-
		1,800,000	2,250,000
	At end of year	1,800,000	2,250,000
10	Income and Expenditure account	30 June 2009 €	30 June 2008 €
	At beginning of year	(211,683)	63,305
	Deficit for financial year	(123,862)	(274,988)
	Transfer from Contingency Reserve	450,000	-
		114,455	(211,683)
	At end of year	114,455	(211,683)

11 Approval of financial statements

The Board of Directors approved these financial statements on 2 October 2009.

Appendix 1

Administrative Appendix

Relevant Companies

The Irish Takeover Panel, established pursuant to the Irish Takeover Panel Act, 1997 (the “Act”), is the body responsible for monitoring and supervising takeovers and other relevant transactions in relation to securities in relevant companies in Ireland. For the purposes of the Act a relevant company includes public limited companies or other bodies corporate incorporated in Ireland whose securities are currently being traded, or (if the subject of a takeover or other relevant proposal) were traded within the previous five years, on the Irish Stock Exchange, the London Stock Exchange, the New York Stock Exchange and Nasdaq but excluding those companies whose only securities authorised to be traded on one or more of those markets during the relevant period are debentures or bonds or other securities in the nature of debentures or bonds that do not confer voting rights in the company.

On 20 May 2006 the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006 (the “Regulations”), which transposed the Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids into Irish Law, came into effect. Under the Regulations those companies a bid in respect of which the Panel has jurisdiction by virtue of Regulation 6 to supervise, are deemed to be relevant companies under the Act.

The Rules

In addition to its supervisory function, the Panel is also entrusted under the Act with a rulemaking function. The Irish Takeover Panel Act, 1997, Takeover Rules, 2007 and the Irish Takeover Panel Act, 1997, Substantial Acquisition Rules, 2007 came into effect on 19 December 2007. In addition, the Irish Takeover Panel Act, 1997, Takeover (Amendment) Rules, 2008 came into effect on 15 September 2008 and the Irish Takeover Panel Act, 1997, Takeover (Amendment) (No. 2) Rules, 2008 came into effect on 1 February 2009. These Rules have been made principally to ensure that takeovers (including takeover bids) and other relevant transactions comply with the General Principles set out in the Schedule to the Act. The Rules also provide an orderly framework within which takeovers are conducted. They are not concerned with the financial or commercial advantages or disadvantages of a takeover, which are matters for the companies concerned and their shareholders. Neither are the Rules concerned with issues such as competition and merger policies, which are regulated under different legislation.

Members of the Panel and Board of Directors

The Members of the Panel are representative of bodies professionally involved in the securities markets and in the field of takeovers. They comprise the following five bodies, or in certain cases, their corporate or personal nominee:

Consultative Committee of Accountancy Bodies – Ireland

Law Society of Ireland

Irish Association of Investment Managers

Irish Bankers Federation

Irish Stock Exchange Limited

If deemed necessary, the Minister may alter this list by introducing appropriate regulations. Each of the aforementioned bodies has appointed a director to the Board of the Panel. In addition, the Governor of the Central Bank of Ireland has appointed the Chairperson and Deputy Chairperson to the Board.

The Act also provides for the Governor of the Central Bank and the five nominating bodies to designate one or more alternates for each director appointed by them, and four of the nominating bodies have done so. This facilitates the functioning of the Panel when directors are unavailable or are faced with a potential conflict of interest in relation to a case under consideration. Finally, there is also a provision for up to three additional directors to be co-opted by the existing directors. The Board is often required to meet at short notice in order to consider issues requiring urgent decisions.

The Executive

The day-to-day work of the Panel is carried out by the Executive through the office of the Director General. The Executive deals with the general administration of the Panel and the Rules, including consideration of queries and submissions which do not require reference to the Board. The Executive is available for consultation and to give guidance before and during takeover transactions. The Executive is also responsible for monitoring dealings in the shares of relevant companies to ensure compliance with the Rules.

Enforcement of the Rules

The Act gives the Panel statutory authority to make rulings as to whether any activity or proposed activity complies with the General Principles and the Rules. The Panel is also empowered to give directions to any party to a takeover to do or refrain from doing anything

specified by the Panel. The Panel may also investigate a person's conduct where it reasonably believes that a contravention of the General Principles or Rules has occurred or may occur. Where appropriate, the Panel may advise, admonish or censure such a person in relation to his or her conduct. In order to carry out its functions, the Panel may conduct a hearing in relation to the matter concerned. For the purposes of such a hearing, the Panel has the same powers, rights and privileges as are vested in the High Court in relation to compelling attendance, examining on oath and compelling the production of documents. The Act also affords witnesses before the Panel the same immunities and privileges as witnesses before the High Court.

Access to Reports

Where it deems it necessary, the Panel (under section 21 of the Act) may require a Court-appointed inspector to furnish it with a copy of a report provided to the Court or the Minister under the Companies Act, 1990. Similarly, the Panel may require a recognised Stock Exchange to furnish it with a copy of any report given to the Director of Public Prosecutions in respect of an insider dealing offence. To date, no such requests have been made.

Charges

In order to defray the expenses incurred in the performance of its functions under the Act, the Panel is authorised to impose charges on relevant companies, on offerors who are not relevant companies, on dealings in the securities of relevant companies and on documentation submitted to the Panel in accordance with the Rules or in relation to Panel proceedings. The consent of the Minister to the current level of charges, which are set out on pages 25 and 26 has been obtained.

Panel Charges

made under section 16 of the Act and effective from 1 July 2009.

1. *Annual charge payable by relevant companies*

Relevant companies pay an annual charge to the Panel based on Market Capitalisation as at 30 June in each year. The scale is as follows:

Market Capitalisation	Annual Charge
€ Million	€
over 1,250	18,750
625 - 1,250	12,500
125 - 625	6,250
62 - 125	5,000
31 - 62	3,750
12 - 31	2,500
Under 12	1,250

2. *Charge on transactions in securities of relevant companies*

Charges are made on contracts in respect of dealings in securities of relevant companies. This charge amounts to €1.25 on each contract note in respect of transactions valued at more than €12,500.

3. *Document charges - takeovers and other relevant transactions*

A document charge is made in respect of documents furnished to the Panel under the rules in connection with takeovers and other relevant transactions. The scale for these charges is:

Value of the Offer € Million	Charge €
Under 5	2,500
5 - 15	10,000
15 - 35	17,500
35 - 65	35,000
65 - 125	50,000
Over 125	62,500

The charge in respect of “whitewash” waiver applications is €2,500.

4. *Charge on offerors which are not relevant companies*

Where an offeror is not a relevant company, or a subsidiary of a relevant company, a charge is made additional to the document charge as set out above. This charge is made for an amount equal to the annual charge payable by a relevant company having a market capitalisation equal to that of the offeree at the offer price.

5. *Document charge - proceedings of the Panel*

The Panel is empowered to charge up to €900 per document in respect of documents furnished to the Panel by a person in relation to proceedings to the Panel.

Appendix 3

Other transactions involving relevant companies

Pursuant to the Anglo Irish Bank Corporation Act 2009 the Minister for Finance acquired all of the issued shares in Anglo Irish Bank Corporation plc. Under that Act the acquisition of such shares by the Minister was deemed not to be an offer, a takeover or other relevant transaction within the meaning of the Irish Takeover Panel Act 1997 or a takeover bid within the meaning of the European Communities Takeover Bids (Directive 2004/25/EC) Regulations 2006.

Appendix 4

During the course of the year the Panel exercised certain of its powers under the Act as follows:

Rulings

The Panel issued ninety-two rulings during the year the majority of which related to the takeover of Aer Lingus Group plc.

Waivers

Thirteen waivers were granted during the year. Eight of the waivers were in respect of waivers of Rule 9 (mandatory offer and its terms) and Rule 37 (redemption or purchase by a company of its own securities). Two of the waivers were in respect of waivers of the Takeover Rules in relation to transactions by companies deemed to be relevant companies pursuant to section 2(b) of the Act. The remaining three waivers were in respect of waivers of Rule 3 (independent advice; views of the Board); Rule 26 (documents to be on display); and Rule 28 (profit forecasts).

Derogations

The Panel granted four derogations during the year.

Directions

The Panel issued fourteen directions during the year all of which were issued in connection with the takeover of Aer Lingus Group plc.